

## Agricultural Marketing Service, USDA

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without regard to the provisions of paragraph (a) of this section, and of §§ 924.41 and 924.55:

(1) The shipment consists of prunes sold for home use and not for resale, and

(2) Each container is stamped or marked with the handler's name and address and with the words "not for resale" in letters at least one-half inch in height.

(c) The term *U.S. No. 1* shall have the same meaning as when used in the United States Standards for Grades of Fresh Plums and Prunes (7 CFR 2851.1520 through 2851.1538); the term *purplish color* shall have the same meaning as when used in the Washington State Department of Agriculture Standards for Italian Prunes (April 29, 1978), and in the Oregon State Department of Agriculture Standards for Italian Prunes (October 5, 1977); the term *diameter* means the greatest dimension measured at right angles to a line from the stem to blossom end of the fruit; and, except as otherwise specified, all other terms shall have the same meaning as when used in the marketing agreement and order.

[46 FR 38668, July 29, 1981, as amended at 49 FR 27732, July 6, 1984; 61 FR 40958, Aug. 7, 1996]

EFFECTIVE DATE NOTE: At 71 FR 26821, May 9, 2006, § 924.319 was suspended indefinitely, effective May 10, 2006.

## PART 925—GRAPES GROWN IN A DESIGNATED AREA OF SOUTH-EASTERN CALIFORNIA

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AUTHORITY: 7 U.S.C. 601-674.

SOURCE: 45 FR 40566, June 16, 1980, unless otherwise noted.

## § 925.1

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### DEFINITIONS

#### § 925.1 Secretary.

*Secretary* means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated.

#### § 925.2 Act.

*Act* means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601–674).

#### § 925.3 Person.

*Person* means an individual, partnership, corporation, association, or any other business unit.

#### § 925.4 Grapes.

*Grapes* means any variety of vinifera species table grapes grown in the production area.

#### § 925.5 Production area.

*Production area* means Imperial County, California, and that part of Riverside County and San Diego County, California, situated east of a line drawn due north and south through the Post Office in White Water, California.

#### § 925.6 Varieties.

*Varieties* means and includes all classifications or subdivisions of *Vitis vinifera* table grapes.

#### § 925.7 Producer.

*Producer* is synonymous with *grower* and means any person who produces grapes for the fresh market and who has a proprietary interest therein.

#### § 925.8 Handler.

*Handler* is synonymous with *shipper* and means any person (except a common or contract carrier of grapes owned by another person) who handles grapes or causes grapes to be handled.

#### § 925.10 Handle.

*Handle* is synonymous with *ship* and means to pack, sell, deliver (including delivery to a storage facility), trans-

port, or in any way to place grapes in the current of commerce within the production area or between the production area and any point outside thereof: *Provided*, That such term shall not include the sale of grapes on the vine and except when regulations are effective pursuant to § 925.52(a)(5) shall not include the transportation or delivery of grapes to a packinghouse within the production area for preparation for market.

#### § 925.11 Pack.

*Pack* means the specific arrangement, weight, grade or size, including the uniformity thereof, of the grapes within a container: *Provided*, That when used in or with respect to § 925.52(a)(5) such term shall mean to place grapes into containers for shipment to market as fresh grapes.

#### § 925.12 Fiscal period.

*Fiscal period* is synonymous with *fiscal year* and means the 12 month period beginning on December 1 of one year and ending the last day of November of the following year or such other period as the committee, with the approval of the Secretary, may prescribe.

#### § 925.13 Container.

*Container* means any lug, box, bag, crate, carton, or any other receptacle used in packing grapes for shipment as fresh grapes, and includes the dimensions, capacity, weight, marking, and any pads, liners, lids, and any or all appurtenances thereto or parts thereof. The term applies, in the case of grapes packed in consumer packages, to the master receptacle and to any and all packages therein.

#### § 925.14 Committee.

*Committee* means the California Desert Grape Administrative Committee established under § 925.20.

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## § 925.24

### ADMINISTRATIVE BODY

#### § 925.20 Establishment and membership.

(a) There is hereby established a California Desert Grape Administrative Committee consisting of 12 members, each of whom shall have an alternate who shall have the same qualifications as the member. Five of the members and their alternates shall be producers or officers or employees of producers (producer members). Five of the members and their alternates shall be handlers or officers or employees of handlers (handler members). One member and alternate shall be either a producer or handler or officer or employee thereof. One member and alternate shall represent the public.

(b) Not more than two members and not more than two alternate members shall be affiliated with the same handler entity.

(c) The committee may, with the approval of the Secretary, provide such other allocation of producer or handler membership, or both, as may be necessary to assure equitable representation.

#### § 925.21 Term of office.

The term of office of the members and alternates shall be one fiscal period. Each member and alternate shall serve in such capacities for the portion of the term of office for which they are selected and have qualified and until their respective successors are selected and have qualified.

#### § 925.22 Nomination.

(a) *Initial members.* Nominations for each of the initial members, together with nominations for the initial alternate members for each position, may be submitted to the Secretary by the Committee responsible for promulgation of this part. Such nominations may be made by means of a meeting of the growers and a meeting of the handlers. Such nominations, if made, shall be filed with the Secretary no later than the effective date of this part. In the event nominations for initial members and alternate members of the committee are not filed pursuant to, and within the time specified in, this section, the Secretary may select such

initial members and alternate members without regard to nominations, but selections shall be on the basis of the representation provided in § 925.20.

(b) *Successor members.* The Secretary shall cause to be held, not later than November 15, of each year, meetings of producers and handlers for the purpose of making nominations for members and alternate members of the committee.

(c) Only producers, including duly authorized officers or employees of producers, who are present at such nomination meetings, may participate in the nomination and election of nominees for producer members and their alternates. Each producer entity shall be entitled to cast only one vote. If a person is both a producer and a handler of grapes, such person may participate in both producer and handler nominations.

(d) Only handlers, including duly authorized officers or employees of handlers, who are present at such nomination meetings, may participate in the nomination and election of nominees for handler members and their alternates. Each handler entity shall be entitled to cast only one vote.

(e) One member and alternate member shall be nominated by a vote of both producers and handlers and may be of either group.

(f) The public member and alternate member shall be nominated by the committee. The committee shall prescribe, with the approval of the Secretary, procedures for the nomination of the public member and qualification requirements for such member.

#### § 925.23 Selection.

The Secretary shall select members and alternate members of the committee from persons nominated pursuant to § 925.22 or from other qualified persons.

#### § 925.24 Failure to nominate.

If nominations are not made within the time and in the manner specified in § 925.22 the Secretary may select the members and alternate members of the committee without regard to nominations on the basis of the representation provided for in § 925.20.

## **§ 925.25**

### **§ 925.25 Acceptance.**

Any person selected by the Secretary as a member or as an alternate member of the committee shall qualify by filing a written acceptance with the Secretary promptly after being notified of such selection.

### **§ 925.26 Vacancies.**

To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate member of the committee to qualify, or in the event of the death, removal, resignation, or disqualification of any member or alternate member of the committee, a successor for the unexpired term of such member or alternate member of the committee shall be nominated and selected in the manner specified in §§ 925.22 and 925.23. If the names of the nominees to fill any such vacancy are not made available to the Secretary within a reasonable time after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, which selection shall be made on the basis of the representation provided for in § 925.20.

### **§ 925.27 Alternate members.**

An alternate member shall act in the place of the member during such member's absence or at such member's request, and may be assigned other program duties by the chairman or the committee. In the event of the death, removal, resignation, or disqualification of a member the alternate shall act for the member until a successor for such member is selected and has qualified. In the event that both a member and that member's alternate are unable to attend a committee meeting, the member or committee members present may designate any other alternate to serve in such member's place at the meeting if such action is necessary to secure a quorum: *Provided*, That not more than two members or alternates acting for members who are affiliated with the same handler entity shall serve as members at the same meeting.

### **§ 925.28 Powers.**

The committee shall have the following powers:

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(a) To administer the provisions of this part in accordance with its terms;

(b) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this part;

(c) To make and adopt rules and regulations to effectuate the terms and provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

### **§ 925.29 Duties.**

The committees shall have, among others, the following duties:

(a) To select a chairman and such other officers as may be necessary, and to define the duties of such officers;

(b) To appoint such employees, agents, and representatives as it may deem necessary, and to determine compensation and to define the duties of each;

(c) To submit to the Secretary as soon as practicable after the beginning of each fiscal period a budget for such period, including a report in explanation of the items appearing therein and a recommendation as to the rate of assessment for such period;

(d) To keep minutes, books, and records, which will reflect all of the acts and transactions of the committee and which shall be subject to examination by the Secretary;

(e) To prepare periodic statements of the financial operations of the committee and to make copies of each such statement available to growers and handlers for examination at the office of the committee;

(f) To cause its books to be audited by a competent public accountant at least once each fiscal period and at such times as the Secretary may request;

(g) To act as intermediary between the Secretary and any grower or handler;

(h) To investigate and assemble data on the growing, handling, and marketing conditions with respect to grapes;

(i) To submit to the Secretary the same notice of meetings of the committee as is given to its members;

(j) To submit to the Secretary such available information as may be requested; and

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(k) To investigate compliance with the provisions of this part.

### § 925.30 Procedure.

(a) Eight members of the committee shall constitute a quorum and any action of the committee shall require at least eight concurring votes;

(b) The committee may vote by telephone, telegraph, or other means of communications; and any votes so cast shall be confirmed promptly in writing: *Provided*, That if an assembled meeting is held, all votes shall be cast in person.

### § 925.31 Compensation and expenses.

The members of the committee, and alternates when acting as members, shall serve without compensation but may be reimbursed for expenses necessarily incurred by them in the performance of their duties under this part: *Provided*, That the committee at its discretion may request the attendance of one or more alternates at any or all meetings notwithstanding the expected or actual presence of the respective members and may pay expenses as aforesaid.

### § 925.32 Annual report.

The committee should, as soon as practicable, after the close of each fiscal period, prepare and mail an annual report to the Secretary and make a copy available to each grower and handler who requests a copy of the report.

## EXPENSES AND ASSESSMENTS

### § 925.40 Expenses.

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the committee for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this part. The funds to cover such expenses shall be acquired in the manner prescribed in § 925.41.

### § 925.41 Assessments.

(a) Each person who first handles grapes shall pay to the committee, upon demand, such handler's pro rata share of the expenses which the Secretary finds are reasonable and likely

to be incurred by the committee during a fiscal period. The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) The Secretary shall fix the rate of assessment to be paid by each such person during a fiscal period in an amount designed to secure sufficient funds to cover the expenses which may be incurred during such period and to accumulate and maintain a reserve fund equal to approximately one fiscal period's expenses. At any time during or after a fiscal period, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later findings by the Secretary relative to the expenses which may be incurred. Such increase shall be applied to all grapes handled during the applicable fiscal period. In order to provide funds for the administration of the provisions of this part during the first part of a fiscal period before sufficient operating income is available from assessments in the current period's shipments, the committee may accept the payment of assessments in advance, and may also borrow money for such purpose.

(c) Any assessment not paid by a handler within a period of time prescribed by the committee may be subject to an interest or late payment charge, or both. The period of time, rate of interest, and late payment charge shall be recommended by the committee and approved by the Secretary. Subsequent to such approval, all assessments not paid within the prescribed time shall be subject to the interest or late payment charge, or both.

### § 925.42 Accounting.

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:

(1) If such excess is not retained in a reserve, as provided in paragraph (d)(2) of this section, it shall be refunded proportionately to the persons from whom it was collected: *Provided*, That any

## § 925.45

sum paid by a person in excess of that person's pro rata share of the expenses during any fiscal period may be applied by the committee at the end of such fiscal period to any outstanding obligations due the committee from such person.

(2) The committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal periods as a reserve: *Provided*, That funds in the reserve shall not exceed approximately one fiscal period's expenses. Such reserve funds may be used: (i) To defray expenses, during any fiscal period, prior to the time the assessment income is sufficient to cover such expenses; (ii) to cover deficits incurred during any fiscal period when assessment income is less than expenses; (iii) to defray expenses incurred during any period when any or all provisions of this part are suspended or are inoperative; or (iv) to cover necessary expenses of liquidation in the event of termination of this part. Upon such termination, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That to the extent practicable such funds shall be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by the committee under this part shall be used solely for the purpose specified in this part and shall be accounted for in the manner provided in this part. The Secretary may at any time require the committee and its members to account for all receipts and disbursements.

(c) Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds in such member's possession to the committee, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in the committee full title to all of the property, funds, and claims vested in such member pursuant to this part.

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### RESEARCH AND MARKET DEVELOPMENT

#### § 925.45 Production research and market research and development.

The committee, with the approval of the Secretary, may establish or provide for the establishment of production research, marketing research and development projects designed to assist, improve or promote the marketing, distribution and consumption or the efficient production of grapes. The expense of such projects shall be paid from funds collected pursuant to this part.

### REGULATIONS

#### § 925.50 Marketing policy.

Each season prior to making any recommendation pursuant to § 925.51 the committee shall submit to the Secretary a report setting forth its marketing policy for the ensuing marketing season. Such marketing policy report shall contain information relative to:

- (a) The estimated total shipments of grapes produced within the production area;
- (b) The expected general quality of grapes in the production area;
- (c) The expected demand conditions for grapes;
- (d) The probable prices for grapes;
- (e) Supplies of competing commodities, including foreign produced grapes;
- (f) Trend and level of consumer income;
- (g) Other factors having a bearing on the marketing of grapes; and
- (h) The type of regulations expected to be recommended during the marketing season.

#### § 925.51 Recommendation for regulation.

Upon complying with the requirements of § 925.50 the committee may recommend regulations to the Secretary whenever the committee deems that such regulations as are provided in § 925.52 will tend to effectuate the declared policy of the act.

#### § 925.52 Issuance of regulations.

- (a) The Secretary shall regulate, in the manner specified in this section, the handling of grapes upon finding

from the recommendations and information submitted by the committee, or from other available information, that such regulation would tend to effectuate the declared policy of the act. Such regulation may: (1) Limit the handling of any grade, size, quality, maturity, or pack, or any combination thereof, of any or all varieties of grapes during any period or periods; (2) limit the handling of any grade, size, quality, maturity, or pack of grapes differently for different varieties, or any combination of the foregoing during any period or periods; (3) limit the handling of grapes by establishing in terms of grades, sizes, or both, minimum standards of quality and maturity during any period when season average prices are expected to exceed the parity level; (4) fix the size, capacity, weight, dimensions, markings, materials, or pack of the container which may be used in handling of grapes; (5) establish holidays by prohibiting the packing of all varieties of grapes during a specified period or periods.

(b) No handler shall handle grapes that were packed during any period when such packing was prohibited by any regulation issued under paragraph (a)(5) of this section unless such grapes are handled under § 925.54.

**§ 925.53 Modification, suspension, or termination of regulations.**

(a) In the event the committee at any time finds that, by reason of changed conditions, any regulations issued pursuant to § 925.52 should be modified, suspended, or terminated, it shall so recommend to the Secretary.

(b) Whenever the Secretary finds from the recommendations and information submitted by the committee or from other available information that a regulation should be modified, suspended, or terminated with respect to any or all shipments of grapes in order to effectuate the declared policy of the act, the Secretary shall modify, suspend, or terminate such regulation. If the Secretary finds that a regulation obstructs or does not tend to effectuate the declared policy of the act, the Secretary shall suspend or terminate such regulation. On the same basis and in like manner the Secretary may termi-

nate any such modification or suspension.

**§ 925.54 Special purpose shipments.**

(a) Regulations in effect pursuant to § 925.41, § 925.52, or § 925.55 may be modified, suspended, or terminated to facilitate handling of grapes for purposes which may be recommended by the committee and approved by the Secretary.

(b) The committee shall, with the approval of the Secretary, prescribe such rules, regulations, and safeguards as it may deem necessary to prevent grapes handled under the provisions of this section from entering the channels of trade for other than the specific purposes authorized by this section.

INSPECTION AND CERTIFICATION

**§ 925.55 Inspection and certification.**

(a) Whenever the handling of any variety of grapes is regulated pursuant to § 925.52, each handler who handles grapes shall, prior thereto, cause such grapes to be inspected by the Federal or Federal-State Inspection Service and certified as meeting the applicable requirements of such regulation: *Provided*, That inspection and certification shall not be required for grapes which previously have been so inspected and certified if such prior inspection was performed within such period as may be established pursuant to paragraph (b) of this section. Promptly after the inspection and certification each such handler shall submit, or cause to be submitted, to the committee a copy of the certificate of inspection issued with respect to such grapes.

(b) The committee may, with the approval of the Secretary, establish a period prior to shipment during which the inspection required by this section must be performed.

(c) The committee may enter into an agreement with the Federal and Federal-State Inspection Services with respect to the costs of the inspection required by paragraph (a) of this section, and may collect from handlers their respective pro rata share of such costs.

## § 925.60

### REPORTS

#### § 925.60 Reports.

(a) Each handler shall furnish to the committee, at such times and for such periods as the committee may designate, certified reports covering, to the extent necessary for the committee to perform its functions, each shipment of grapes as follows: (1) The name of the shipper and the shipping point; (2) the car or truck license number (or name of the trucker), and identification of the carrier; (3) the date and time of departure; (4) the variety; (5) the number and type of containers in the shipment; (6) the destination; and (7) identification of the inspection certificate pursuant to which the grapes were handled.

(b) Upon request of the committee, made with the approval of the Secretary, each handler shall furnish to the committee, in such manner and at such times as it may prescribe, such other information as may be necessary to enable the committee to perform its duties under this part.

(c) Each handler shall maintain for at least two succeeding fiscal periods after the end of the fiscal period in which the transactions occurred, such records of the grapes received and disposed of by such handler as may be necessary to verify the reports such handler submits to the committee pursuant to this section.

(d) All reports and records submitted by handlers pursuant to the provisions of this section shall be received by, and at all times be in custody of one or more designated employees of the committee. No such employee shall disclose to any person, other than the Secretary upon request therefor, data or information obtained or extracted from such reports and records which might affect the trade position, financial condition, or business operation of the particular handler from whom received: *Provided*, That such data and information may be combined, and made available to any person, in the form of general reports in which the identities of the individual handlers furnishing the information are not disclosed and may be revealed to any extent necessary to effect compliance with the

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provisions of this part and the regulations issued thereunder.

### MISCELLANEOUS PROVISIONS

#### § 925.61 Compliance.

Except as provided in this part, no handler shall handle grapes except in conformity with the provisions of this part and the regulations issued thereunder.

#### § 925.62 Right of the Secretary.

The members of the committee (including successors and alternates) and any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance thereon or in accordance therewith prior to such disapproval by the Secretary.

#### § 925.63 Termination.

(a) The Secretary shall terminate or suspend the operation of any and all of the provisions of this part whenever the Secretary finds that such provisions do not tend to effectuate the declared policy of the act.

(b) The Secretary shall terminate the provisions of this part whenever it is found by referendum or otherwise that such termination is favored by a majority of the growers: *Provided*, That such majority has during the current marketing season produced more than 50 percent of the volume of grapes which were produced within the production area for shipment in fresh form. Such termination shall become effective on the first day of December subsequent to the announcement thereof by the Secretary.

(c) The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

#### § 925.64 Proceedings after termination.

(a) Upon the termination of the provisions of this part, the committee



shall, for the purpose of liquidating the affairs of the committee, continue as trustees of all the funds and property then in its possession, or under its control, including claims for any funds unpaid or property not delivered at the time of such termination. Any action by said trustees shall require the concurrence of a majority of the trustees.

(b) The said trustees shall: (1) Continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such persons as the Secretary may direct; (3) upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person, full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant thereto.

(c) Any person to whom funds, property, or claims have been transferred or delivered, pursuant to this section, shall be subject to the same obligation imposed upon the committee and upon the trustees.

**§ 925.65 Effect of termination or amendment.**

Unless otherwise expressly provided by the Secretary, the termination of this part or any regulation issued pursuant to this part, or the issuance of any amendment to either thereof, shall not: (a) Affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this part or any regulation issued under this part; or (b) release or extinguish any violation of this part or any regulation issued under this part; or (c) affect or impair any rights or remedies of the Secretary or any other person with respect to any such violation.

**§ 925.66 Duration of immunities.**

The benefits, privileges, and immunities conferred upon any person by virtue of this part shall cease upon its termination, except with respect to acts done under and during the existence of this part.

**§ 925.67 Derogation.**

Nothing contained in this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States: (a) To exercise any powers granted by the act or otherwise; or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

**§ 925.68 Personal liability.**

No member or alternate member of the committee and no employee or agent of the committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, employee, or agent, except for acts of dishonesty, willful misconduct, or gross negligence.

**§ 925.69 Separability.**

If any provision of this part is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

**Subpart—Rules and Regulations**

**§ 925.112 Fiscal period.**

Beginning January 1, 1988, *fiscal period* will mean January 1 through December 31 of each year.

[52 FR 27538, July 22, 1987]

**§ 925.141 Late payments.**

(a) The committee shall impose a late payment charge of 5 percent on the unpaid balance on any handler whose assessment has not been received in the committee's office, or the envelope containing the payment legibly postmarked by the U.S. Postal Service, within 45 days of the invoice date shown on the handler's assessment statement.

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(b) In addition to that specified in paragraph (a) of this section, the committee shall impose an interest charge on any handler whose assessment payment has not been received in the committee's office, or the envelope containing the payment legibly postmarked by the U.S. Postal Service, within 45 days of the invoice date. The rate of 1½ percent per month shall be applied to the unpaid balance and late payment charge for the number of days all or any part of the assessment specified in the handler's assessment statement is delinquent beyond the 45 day period.

(c) The committee, upon receipt of a late payment, shall promptly notify the handler (by registered mail) of any late payment charge and/or interest charge due as provided in paragraphs (a) and (b) of this section. If such charges are not paid, or the envelope containing payment is not legibly postmarked by the U.S. Postal Service, within 45 days of the date of such notification, late payment and interest charges as provided in paragraphs (a) and (b) of this section will accrue on the unpaid amount.

[57 FR 24352, June 9, 1992]

## § 925.160 Reports.

(a) When requested by the California Desert Grape Administrative Committee, each shipper who ships grapes, shall furnish an end-of-season grape shipment report (CDGAC-3) to the Committee no later than 10 days after the last day of shipment for the season or such later time the Committee deems appropriate. Such reports shall show the reporting period, the name and other identification of the shipper and grower, the invoice number, shipping date, varietal name, shipment destination (city and state), and the number of lugs shipped (pounds).

(b) When requested by the California Desert Grape Administrative Committee (CDGAC), each shipper who ships grapes shall furnish to the committee at such time as the committee shall require, an annual grape acreage survey (CDGAC Form 7), which shall include, but is not limited to, the following: The applicable year in which the report is requested; the names of the shipper (handler) who will handle

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the grapes and the grower who produces them; the location of each vineyard; the variety or varieties grown in each vineyard; and the bearing, non-bearing, and total acres of each vineyard.

[69 FR 21692, Apr. 22, 2004, as amended at 72 FR 29840, May 30, 2007]

## Subpart—Assessment Rates

### § 925.215 Assessment rate.

On and after January 1, 2007, an assessment rate of \$0.0200 per 18-pound lug is established for grapes grown in a designated area of southeastern California.

[72 FR 37425, July 10, 2007]

### § 925.304 California Desert Grape Regulation 6.

During the period April 20 through August 15 each year, no person shall pack or repack any variety of grapes except Emperor, Almeria, Calmeria, and Ribier varieties, on any Saturday, Sunday, Memorial Day, or the observed Independence Day holiday, unless approved in accordance with paragraph (e) of this section, nor handle any variety of grapes except Emperor, Calmeria, Almeria, and Ribier varieties, unless such grapes meet the requirements specified in this section.

(a) *Grade, size, and maturity.* Except as provided in paragraphs (a)(1) and (a)(2) of this section, such grapes shall meet the minimum grade and size requirements of U.S. No. 1 table, as set forth in the United States Standards for Grades of Table Grapes (European or Vinifera Type 7 CFR 51.880 through 51.914), or shall meet all the requirements of U.S. No. 1 Institutional with the exception of the tolerance percentage for bunch size. Such tolerance shall be 33 percent instead of 4 percent as is required to meet U.S. No. 1 Institutional grade. Grapes meeting these quality requirements may be marked "DGAC No. 1 Institutional" but shall not be marked "Institutional Pack."

(1) Grapes of the Perlette variety shall meet the minimum berry size requirement of ten-sixteenths of an inch;

(2) Grapes of the Flame Seedless variety shall meet the minimum berry size requirement of ten-sixteenths of an

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inch and shall be considered mature if the juice meets or exceeds 16.5 percent soluble solids, or contains not less than 15 percent soluble solids and the soluble solids are equal to or in excess of 20 parts to every part acid contained in juice in accordance with applicable sampling and testing procedures specified in sections 1436.3, 1436.5, 1436.6, 1436.7, 1436.12, and 1436.17 of Article 25

of Title 3: California Code of Regulations (CCR).

(b) *Container and pack.* (1) Such grapes shall be packed in one of the following containers, which are new and clean, and otherwise meet the requirements of sections 1380.14, and 1380.19(n), 1436.37, and 1436.38 of Title 3: California Code of Regulations, except that reusable plastic containers may be reused if such containers are clean:

CONTAINER DESCRIPTIONS IN INCHES

Container	Depth	Width	Length
28 Sawdust Pack .....	7¼ (inside) .....	14 <sup>15</sup> / <sub>16</sub> (inside) .....	18 <sup>5</sup> / <sub>8</sub> (inside)
38J Polystyrene Lug .....	6¾ (inside) .....	12½ (inside) .....	15 <sup>3</sup> / <sub>8</sub> (inside)
38K Standard Grape .....	4½–8½ (inside) .....	13½–14½ (outside) .....	16 <sup>5</sup> / <sub>8</sub> –17½ (outside)
38L Grape Lug .....	7 <sup>5</sup> / <sub>8</sub> (inside) .....	13 <sup>1</sup> / <sub>16</sub> (outside) .....	16 (outside)
38M Grape Lug .....	4¼–5¾ (inside) .....	15 <sup>3</sup> / <sub>8</sub> –16 (outside) .....	23½–24 (outside)
38Q Polystyrene Lug .....	6¼–8¼ (inside) .....	11¼ (inside) .....	18 <sup>1</sup> / <sub>8</sub> (inside)
38R Grape Lug .....	4–7 (inside) .....	15¾–16 (outside) .....	19 <sup>1</sup> / <sub>16</sub> –20 (outside)
38S Grape Lug .....	5–9 (inside) .....	11 <sup>1</sup> / <sub>16</sub> –12 (outside) .....	19 <sup>1</sup> / <sub>16</sub> –20 (outside)
38T Grape Lug .....	5½–7½ (inside) .....	13 <sup>1</sup> / <sub>8</sub> –13 <sup>15</sup> / <sub>16</sub> (outside) .....	15 <sup>5</sup> / <sub>16</sub> –16 (outside)
38U Grape Lug .....	6¾–7 (inside) .....	13 <sup>1</sup> / <sub>16</sub> (outside) .....	20½ (outside)
38 V Grape Lug .....	5¾ (inside) .....	14 (outside) .....	16 (outside)
CP Grape Lug .....	3 <sup>15</sup> / <sub>16</sub> –4¾ (inside) .....	15¾–15 <sup>15</sup> / <sub>16</sub> (outside) .....	23½–23¾ (outside)
CP1 Grape Lug .....	4¾–5 (inside) .....	19½–20 (outside) .....	23¾–24 (outside)

(ii) Containers with a net weight of 5 kilograms (approximately 11 pounds) shall be for export only.

(iii) Such other types and sizes of containers as may be approved by the Committee for experimental or research purposes.

(2) The minimum net weight of grapes in any such containers, except for containers containing grapes packed in sawdust, cork, excelsior or similar packing material, or packed in bags or wrapped in plastic or paper, and containers authorized in paragraph (b)(1)(iii) of this section, shall be 20 pounds based on the average net weight of grapes in a representative sample of containers. Grapes in any such containers packed in bags, or wrapped in plastic or paper prior to being placed in these containers shall meet a minimum net weight of 18 pounds based on the average net weight of grapes in a representative sample of containers: *Provided*, That grapes packed in master containers containing individual consumer packages are exempt from container marking requirements and minimum net weight requirements. Containers of grapes other than master containers containing individual consumer packages shall be marked with

the minimum net weight of 20 or 18 pounds.

(3) Such containers of grapes shall be plainly marked with the minimum net weight of grapes contained therein (with numbers and letters at least one-fourth inch in height), the name of the variety of the grapes and the name of the shipper, as provided in §§1436.30 and 1359 of Title 3: California Code of Regulations.

(4) Such containers of grapes shall be plainly marked with the lot stamp number corresponding to the lot inspection conducted by an authorized inspector, except that such requirement shall not apply to containers in the center tier of a lot palletized in a 3 box by 3 box pallet configuration: *Provided*, That pallets of reusable plastic containers shall have the lot stamp number stamped on two USDA-approved pallet tags, each affixed to opposite sides of the pallet of containers, in addition to other required information on the cards of the individual containers.

(c) *Organically grown grapes.* Organically grown grapes (defined to mean grapes which have been grown for market as natural grapes by performing all the normal cultural practices, but not

using any inorganic fertilizers or agricultural chemicals including insecticides, herbicides, and growth regulators, except sulfur) need not meet the minimum individual berry size requirements of this section if the following conditions and safeguards are met: (1) The handler of such grapes has registered and certified with the committee on a date specified by the committee the location of the vineyard, the acreage and variety of grapes, and such other information as may be needed by the committee to carry out these provisions; (2) each container of organically grown grapes bears the words “organically grown” on one outside end of the container in plain letters in addition to requirements specified under paragraph (b)(3) of this section.

(d) *By-product grapes.* The handling of grapes for processing (raisins, crushing and other by-products) is exempt from requirements specified in paragraphs (a), (b), and (c) of this section if the committee determines that the person handling such grapes has secured the appropriate permit or order from the County Agricultural Commissioner, and the by-product plant or packing plant to which the grapes are shipped has adequate facilities for commercial processing, grading, packing or manufacturing of by-products for resale.

(e) *Suspension of packing holidays.* Upon recommendation of the committee and approval of the Secretary, the prohibition against packing or repacking grapes on any Saturday, Sunday or on Memorial Day or Independence Day holidays of each year, may be modified or suspended to permit the handling of grapes provided such handling complies with procedures and safeguards specified by the committee as follows:

(1) All requests for suspension of a packing holiday shall be in writing, shall state the reasons the suspension is being requested, and shall be submitted to the Committee manager by noon on Wednesday or at least 3 days prior to the requested suspension date;

(2) Upon receipt of a written request, the Committee manager shall promptly give reasonable notice to producers and handlers and to the Secretary that an assembled Committee meeting will be held to discuss the request(s). The

representative of the Secretary shall attend the meeting via speakerphone or in person, and all votes of the Committee members shall be cast in person;

(3) The Committee members shall consider marketing conditions (*i.e.*, supplies of competing commodities to include quantities in inventory, the expected demand conditions for grapes in different markets, and any pertinent documents which provide data on market conditions), weather conditions, labor shortages, the size of the crop remaining to be marketed, and other pertinent factors in reaching a decision to suspend packing holidays;

(4) Once a vote is taken, any documents utilized during the meeting will be forwarded immediately to the Secretary’s representative and a summary of the Committee’s action and reasons for recommending approval or disapproval will be prepared and also forwarded by the committee; and

(5) The Secretary’s representative shall notify the Committee manager of approval or disapproval of the request prior to commencement of the suspended packing holiday and the Committee manager shall notify handlers and producers accordingly.

(f) Certain maturity, container, and pack requirements cited in this regulation are specified in the Title 3: California Code of Regulations and are incorporated by reference. Copies of such requirements are available from Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20090–6456, telephone (202) 720–2491. They are also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html). This incorporation by reference was approved by the Director of the Federal Register. These materials are incorporated as they existed on the date of the approval and a notice of any change in these materials will be published in the FEDERAL REGISTER.

(g) The Federal or Federal-State Inspection Service, F&V, AMS, USDA, is

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the governmental inspection service for certifying the grade, size, quality, and maturity of table grapes grown in the production area. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspections and certification of fresh fruits, vegetables, and other products (7 CFR part 51); except that all persons who request such inspection and certification must provide adequate facilities in which the inspections may be conducted and also provide the necessary equipment and incidental supplies that are considered as standard requirements for providing fresh inspection under Federal or Federal-State inspection procedures.

[51 FR 12501, Apr. 11, 1986, as amended at 51 FR 13209, Apr. 18, 1986; 51 FR 16285, May 2, 1986; 52 FR 20383, June 1, 1987; 52 FR 24444, July 1, 1987; 53 FR 22128, June 14, 1988; 58 FR 21536, Apr. 22, 1993; 59 FR 67619, Dec. 30, 1994; 61 FR 11129, Mar. 19, 1996; 61 FR 14013, Mar. 29, 1996; 63 FR 658, Jan. 7, 1998; 63 FR 28480, May 26, 1998; 67 FR 14873, Mar. 28, 2002; 68 FR 19711, Apr. 22, 2003; 69 FR 18801, Apr. 9, 2004]

EDITORIAL NOTE: After January 1, 1979 “Budget of Expenses and Rate of Assessment” regulations (e.g. sections .200 through .299) and “Handling” regulations (e.g. sections .300 through .399) which are in effect for a year or less, will not be carried in the Code of Federal Regulations. For FEDERAL REGISTER citations affecting these regulations, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

### PART 926—DATA COLLECTION, REPORTING AND RECORDKEEPING REQUIREMENTS APPLICABLE TO CRANBERRIES NOT SUBJECT TO THE CRANBERRY MARKETING ORDER

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AUTHORITY: 7 U.S.C. 601-674.

SOURCE: 70 FR 1999, Jan. 12, 2005, unless otherwise noted.

#### § 926.1 Secretary.

*Secretary* means the Secretary of Agriculture of the United States or any officer or employee of the United States Department of Agriculture who is, or who may hereafter be authorized to act in her/his stead.

EFFECTIVE DATE NOTE: At 71 FR 78046, Dec. 28, 2006, § 926.1 was suspended indefinitely, effective Dec. 29, 2006.

#### § 926.2 Act.

*Act* means Public Act No. 10, 73d Congress [May 12, 1933], as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601 *et seq.*).

EFFECTIVE DATE NOTE: At 71 FR 78046, Dec. 28, 2006, § 926.2 was suspended indefinitely, effective Dec. 29, 2006.

#### § 926.3 Person.

*Person* means an individual, partnership, corporation, association, or any other business unit.

EFFECTIVE DATE NOTE: At 71 FR 78046, Dec. 28, 2006, § 926.3 was suspended indefinitely, effective Dec. 29, 2006.

#### § 926.4 Cranberries.

*Cranberries* means all varieties of the fruit *Vaccinium Macrocarpon* and *Vaccinium oxycoccus*, known as cranberries.

EFFECTIVE DATE NOTE: At 71 FR 78046, Dec. 28, 2006, § 926.4 was suspended indefinitely, effective Dec. 29, 2006.

#### § 926.5 Fiscal period.

*Fiscal period* is synonymous with fiscal year and crop year and means the 12-month period beginning September 1 and ending August 31 of the following year.